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10/748,950	12/30/2003	Roger M. Ikeda	TI-37410	7897
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EXAMINER				
KOZLOJ, STEPHEN R				
ART UNIT		PAPER NUMBER		
2624				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

Office Action Summary

Application No.

10/748,950

Applicant(s)

IKEDA, ROGER M.

Examiner

STEPHEN R. KOZIOL

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Detailed Action

1. Applicant's response filed 7/31/08 has been entered and considered. Claims 1-20 are pending. New grounds of rejection are set for the herein; accordingly this action is made non-final.

Response to Arguments

2. *Response to Arguments re Kurematsu and claims 1 & 17:*

Examiner maintains that Kurematsu teaches each and every limitation of independent claim 1 and that the combination of Kurematsu and Tintera teaches each and every limitation of independent claim 17. Claims 1 and 17 require the claimed processor to be "capable of" determining aperture position (claim 1) and adjusting a rate at which to move the aperture (claim 17), and that the histogram module (claim 1) be "operable to" collect data. The processor, histogram module and gain module as taught by Kurematsu and Tintera (see non-final Office action, pp. 4, 8 and 9) need only be capable of the determining and adjusting functional limitations as recited by claims 1 and 17 (i.e. the independent claims do not require the processor and various modules to perform the claimed function limitations, rather, the processor and various modules merely must possess the ability to (i.e. be "capable of" or "operable to" as recited in claims 1 and 17) perform the claimed functional limitations). Thus, examiner maintains that the processors, histogram module and gain module as taught by Kurematsu and Tintera are fully capable of performing the functional limitations recited in independent claims 1 and 17 and are said to teach each and every limitation of independent claims 1 and 17.

Response to Arguments re claim 9:

Examiner maintains that the combination of Kurematsu, Baer and Tintera teach each and every limitation of independent claim 9. Applicant submits that Tintera does not teach the limitation of "adjusting a rate at which to move the aperture based at least in part on a current background storage module and a magnitude of a difference between the target aperture position and a current aperture position" as required by claim 9 (Remarks, 07/31/2008, pp. 9). Applicant states that because Tintera uses a table that generates an aperture position based on light level, Tintera cannot be said to teach the limitation of "adjusting a rate at which to move the aperture based at least in part on a current background storage module and a magnitude of a difference between the target aperture position and a current aperture position" as required by claim 9 (Remarks, 07/31/2008, pp. 9). While Fig. 3 does teach that a light level contributes to the determined aperture position, Tintera also teaches that a difference between the current aperture position and the next aperture position contributes to the determining of the next aperture position (*see e.g. Tintera col. 3 line 35 thru col. 4 line 42*). Tintera's aperture adjustment system necessarily uses the current aperture position and the desired aperture position to compute the rate at which the aperture is moved to the desired position. This rate of aperture movement comprises the position of both the current aperture position and the desired aperture position, and so comprises a distance between the current aperture position and the desired aperture position. Thus, Tintera is interpreted to teach the limitation of "adjusting a rate at which to move the aperture based at least in part on a current background storage module and a magnitude of a difference between the target aperture position and a current aperture position" as well as the limitation the new aperture position is based at least in part on the current aperture position and the step size to move the aperture as required by claim 9.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9 -16 are rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. § 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Referencing the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled Clarification of “Processes”¹ under 35 U.S.C. § 101). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

In order to be “tied-to” another statutory category, structure associated with another statutory category must be positively recited in a step or steps significant to the basic inventive concept. See *In re Bilski*, ___ F.3d ___ (Fed. Cir. 2008) (*en banc*) “The Supreme Court ... has enunciated a definitive test to determine whether a process claim is tailored narrowly enough to encompass only a particular application of a fundamental principle rather than to pre-empt the principle itself. A claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing.” *Id.* at 10-11 (emphasis added).

¹ Link to the memo:

http://www.uspto.gov/web/offices/pac/dapp/opla/precognotice/section_101_05_15_2008.pdf
or, from uspto.gov: Policy and Law→Patents→Memorandum to the Examining Corps→Clarification of “Processes” under 35 U.S.C. § 101.

Structure in statements of intended use or purpose, whether in the claim or preamble, is not sufficient. “[T]he involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity.” Id. at 24.

- Structure recited as part of insignificant pre and post solution activity is not sufficient (i.e. the structure must be significant to the basic inventive concept).
- The other statutory category must be “positively” recited in the claim, not implied by the claim. Structure will not be read from the specification into the claim.

Representative independent claim 9 is a “process” that fails to recite structure that is significant to the basic inventive concept (i.e. the “particular machine” that performs the determining, adjusting and determining steps is not recited in claim 9 or any claim depending therefrom). Hence, claim 9 does not meet the “tied-to” criteria requiring structure to be positively recited (not implied) in the process claim. One way to overcome the present 35 U.S.C. § 101 rejection may be to amend claim 9 to positively recite the “particular machine” used to perform the steps of the process

The basic idea is that a process must be tied to something real (i.e., another statutory category), and not be an idea or concept separated from or floating above or apart from real things. According to the Office's present understanding, any “process” claim must show a “tie” to another statutory category (e.g. through a particular machine).

For a more detailed explanation of this or other Office policy, Applicants may refer to the Office of Patent Legal Administration (OPLA):

- (571) 272-7701 – General patent examination legal and policy guidance

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims (1, 5, 7 and 8) are rejected under 35 U.S.C. 102(b) as being anticipated by Kurematsu U.S. Pre-Grant Application Publication 2002/0105621 A1 (“Kurematsu”).

Regarding claim 1, Kurematsu teaches a control module for use in an image display system (Abstract, fig. 1), comprising:

- i. a histogram module operable to collect data associated with a first frame and a second frame of a signal received by the control module, the histogram module comprising a plurality of bins capable of counting a first and second plurality of pixels associated respectively with the first and second frames, wherein the first and second plurality of pixels each comprises a respective maximum intensity component at a particular color level (*Fig. 4A-B, fig 5A-B, also, par. 0073-0074, where the maximum intensity component is Kurematsu’s “maximum luminance” and par. 0073, where Kurematsu discloses operating upon each frame of the input signal*); and
- ii. a processor capable of determining a first position of an adjustable aperture (*projection light amount means*) based at least in part on at least a position of the data collected by the histogram module, and a second position of the adjustable aperture based at least in part on the first position, (*fig 1 item 20 acts as the aperture adjusting processor, also par 0082 teaches that the processor is fully capable of controlling the amount of projection*

light in conformity with the maximum luminance level of the input signal. Also see at least pars. 0084 and 0098 where it becomes clear that Kurematsu discloses a plurality of adjustable aperture positions, each new position for a given image frame necessarily responsive to, and dependant upon, the previous aperture position.), the processor further capable of determining a gain to apply to the second frame of the signal based at least in part on the second adjustable aperture position (par 0080, where the processor is further capable of applying gain, or "amplify[ing] the signal," in response to change in the amount of projected light).

Regarding claim 5, Kurematsu teaches a control module for use in an image display system (Abstract, fig. 1) wherein the adjustable aperture selectively varies an amount of light transmitted along a projection path (*Fig 1 item 20, also, par 0068*).

Regarding claim 7, Kurematsu teaches a control module for use in an image display system (Abstract, fig. 1) wherein the processor determines a new position of the adjustable aperture based on a step size to move the adjustable aperture and a target aperture position (*fig 1 item 20, also, pars 0079-0080*).

Regarding claim 8, Kurematsu teaches a control module for use in an image display system (Abstract, fig. 1) further comprising:

- i. a memory coupled to the processor and capable of storing data associated with an image intensity algorithm (*pars 0074 and 0096-0097*);
- ii. a video processing module coupled to the histogram module and capable of processing the received signal on a frame-by-frame basis (*fig 1 item 30, also, par 0072 & 0073*),

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where Kurematsu's control signal generating means is responsible for processing the received input signal on a frame-by-frame basis); and

- iii. a gain module coupled to the video processing module and the processor, the gain module capable applying the gain to the subsequent frame received by the control module (*fig 1 item P, also, par 0080 where gain, or "amplify the signal," is applied in response to change in the amount of projected light*).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims (2-3 and 6) are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurematsu U.S. Pre-Grant Application Publication 2002/0105621 A1 in view of Baer U.S. Pre-Grant Application Publication 2002/0158986A1 ("Baer").

Regarding claim 2, Baer further teaches a control module for use in an image display system (Abstract, fig. 1) wherein the processor determines the position of the adjustable aperture

based at least in part on the data collected by the histogram module (*see Baer where the image processor (Fig 2 item 22) adjusts the aperture control (Fig. 2 item 14) in part based on a number of clipped pixels and data stored in a histogram as described in ¶¶0026-32 and shown in Figs. 3-5*).

It would have been obvious to a person having ordinary skill in the art to combine the above-identified well known uses and benefits of Kurematsu's aperture control system with the above-identified well known uses and benefits of Baer's aperture control system utilizing clipped pixel values in a fashion encompassed by claim 2, and one skilled in the art would have seen the benefits of doing so. See *KSR International Co. v. Teleflex Inc.* 550 U.S. ____ (2007), "*A person of ordinary skill is also a person of ordinary creativity, not an automaton.*"

Regarding claim 3, Baer further teaches a control module for use in an image display system (Abstract, fig. 1) wherein the parameter associated with the number of clipped pixels comprises no more than a small fraction of the total number of pixels with a modulator (*see Baer where the image processor (Fig 2 item 22) adjusts the aperture control (Fig. 2 item 14) in part based on a number of clipped pixels and data stored in a histogram as described in ¶¶0026-32 and shown in Figs. 3-5*).

Regarding claim 6, Kurematsu teaches a control module for use in an image display system (Abstract, fig. 1) wherein the histogram storage modules operate to count the maximum intensity component of a particular color level (fig. 4A-B, par. 0073-0074). Kurematsu is silent on the histogram storage module comprising exactly thirty-two storage modules. However, Official Notice is taken to note that based on the amount of processed histograms needed to be stored in Kurematsu's disclosed histogram storage modules (par. 0073-0074), it would have been

obvious, practical, and desirable for one of ordinary skill in the art at the time of the invention to modify Kurematsu's number of histogram storage modules within a range including thirty-two histogram storage modules for the benefit of counting the maximum intensity component of a particular color level.

8. Claims (4 and 17-18) are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurematsu US 2002/0105621 A1 in view of Tintera US 5,745,808, hereinafter, Tintera.

Regarding claim 4, Kurematsu in view of Tintera as a whole teaches a control module for use in an image display system (Kurematsu, Abstract, fig. 1) wherein the processor determines the gain to apply to the subsequent frame (Kurematsu, fig 6A-B, also pars 0082-0083, and, 0096-0097). Kurematsu does not explicitly state the gain to be applied to the subsequent frame is performed by accessing an aperture position to gain table. However, Tintera does teach the gain applied to subsequent frames is performed by accessing an aperture position to gain table (Tintera, fig. 3A-B and fig. 6, also, col. 3, ln. 55-67).

It would have been obvious to a person having ordinary skill in the art to combine the above-identified well known uses and benefits of Kurematsu's aperture control system with the above-identified well known uses and benefits of Tintera's aperture rate adjustment in a fashion encompassed by claim 4, and one skilled in the art would have seen the benefits of doing so. See *KSR International Co. v. Teleflex Inc.* 550 U.S. ____ (2007), "*A person of ordinary skill is also a person of ordinary creativity, not an automaton.*"

Regarding newly amended claim 17, Kurematsu teaches a control module for use in an image display system, comprising (Abstract, fig 1):

- i. a gain module coupled to the processor, the gain module capable of applying a gain to a subsequent frame received by the control module, wherein the amount of gain applied to the subsequent frame is based at least in part on the new adjustable aperture position (*Kurematsu, fig 1 item P, also, par 0080 where gain, or “amplify the signal,” is applied in response to the new adjustable aperture position or, “change in the amount of projected light”*).

Kurematsu is silent on adjusting the rate at which move the aperture, however Tintera teaches:

- ii. a processor capable of adjusting a rate at which an adjustable aperture based at least in part on a target aperture position and a current aperture, wherein the target aperture position is based at least in part on data of a first frame received by the control module (*see Tintera col. 3 line 35 thru col. 4 line 42 as described re claim 9 above*)

Regarding claim 18, Kurematsu teaches a control module for use in an image display system (Abstract, fig 1) wherein the processor is further capable of determining a gain to apply to a subsequent frame based at least in part on the new adjustable aperture position (*Kurematsu fig 1 item P, also, par 0080 where gain, or “amplify the signal,” is applied in response to the new adjustable aperture position or, “change in the amount of projected light”*).

9. Claims (9-12, 14-15 and 19-20) are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurematsu US 2002/0105621 A1 in view of Baer U.S. Pre-Grant Application Publication 2002/0158986A1 further in view of Tintera US 5,745,808 (“Tintera”).

Regarding newly amended claim 9, Kurematsu teaches a method of controlling a position of an aperture in an image display system (Abstract, fig 1), comprising:

- i. determining a gain to apply to a subsequent frame based at least in part on a new aperture position, wherein the new aperture position is based at least in part on the current aperture position and the step size to move the aperture (*Kurematsu pars 0072-0073 and 0080, where the luminance, and thus aperture positions, of a succession of input frames is compared.*)

Kurematsu is silent on determining a target aperture position based at least in part on a parameter associated with a number of clipped pixels and data stored in a histogram, wherein the data stored in the histogram comprises data of a first frame, and adjusting a rate at which to move the aperture based at least in part on a current background storage module and a magnitude of a difference between the target aperture position and a current aperture position.

However, Baer teaches the limitation of determining a target aperture position based at least in part on a parameter associated with a number of clipped pixels and data stored in a histogram, wherein the data stored in the histogram comprises data of a first frame (*see Baer where the image processor (Fig 2 item 22) adjusts the aperture control (Fig. 2 item 14) in part based on a number of clipped pixels and data stored in a histogram as described in ¶¶0026-32 and shown in Figs. 3-5*).

Tintera further teaches the limitation of adjusting a rate at which to move the aperture based at least in part on a current background storage module and a magnitude of a difference between the target aperture position and a current aperture position (*see Tintera col. 3 line 35 thru col. 4 line 42*). Tintera also teaches the limitation of the new aperture position is based at

least in part on the current aperture position and the step size to move the aperture (*see Tintera col. 3 line 35 thru col. 4 line 42 as further explained in "Response to Arguments" above*).

It would have been obvious to a person having ordinary skill in the art to combine the above-identified well known uses and benefits of Kurematsu's aperture control system with the above-identified well known uses and benefits of Baer's aperture control system utilizing clipped pixel values with the above-identified well known uses and benefits of Tintera's aperture rate adjustment in a fashion encompassed by claim 9, and one skilled in the art would have seen the benefits of doing so. See *KSR International Co. v. Teleflex Inc.* 550 U.S. ____ (2007), "*A person of ordinary skill is also a person of ordinary creativity, not an automaton.*"

Regarding claim 10 Baer further teaches a method of controlling a position of an aperture in an image display system wherein determining the target aperture position comprises:

determining a histogram storage module that contains a pixel equaling the parameter associated with the number of clipped pixels accessing a target aperture position table based on the histogram storage module that contains the pixel equaling the parameter associated with the number of clipped pixels (*see Baer where the image processor (Fig 2 item 22) adjusts the aperture control (Fig. 2 item 14) in part based on a number of clipped pixels and data stored in a histogram as described in ¶¶0026-32 and shown in Figs. 3-5*).

Claim 11 has been analyzed and is rejected with respect to the discussion in claim 3 above, as the limitation in claim 11 are identical to the limitations in claim 3, despite those limitations manifesting in method form in claim 11 as opposed to apparatus form in claim 3.

Claim 12 has been analyzed and is rejected for the reasons indicated re claim 6 above.

Claim 14 has been analyzed and is rejected with respect to the discussion in claim 4 above, as the limitation in claim 14 are identical to the limitations in claim 4 supra.

Regarding claim 15, Kurematsu further teaches a method of controlling a position of an aperture in an image display system (Kurematsu, Abstract, fig 1) wherein the aperture position to gain table (see claim 4 discussion) comprises 256 positions (Kurematsu, par. 0074, where 0-255 aperture position stops are disclosed).

Claims 19 has been analyzed and is rejected for the reasons indicated re claim 6 above.

Regarding claim 20, Baer further teaches the method of claim 17 comprising a control module for use in an image display system (Abstract, fig 1) wherein the processor determines the target aperture position based at least in part on the data collected by a histogram (*see Baer where the image processor (Fig 2 item 22) adjusts the aperture control (Fig. 2 item 14) in part based on a number of clipped pixels and data stored in a histogram as described in ¶¶0026-32 and shown in Figs. 3-5).*

10. Claims (13 and 16) are rejected under 35 U.S.C. 103(a) as being unpatentable Kurematsu US 2002/0105621 A1 in view of Baer U.S. Pre-Grant Application Publication 2002/0158986A1 in view of Tintera US 5,745,808 further in view of Kondo et al. US 5,258,848 ("Kondo").

Regarding claim 13 Kurematsu further teaches the method of claim 9 wherein determining the step size to move the aperture comprises:

- i. determining a histogram storage module that contains a pixel equaling a background pixel value and storing that histogram storage module as the current background storage

module (*Kurematsu fig 1, also, pars 0079-0080, where a luminance level of 255 acts as the background storage module value for the light modulating element P*);

- ii. determining a magnitude of a difference between the current background storage module and a preceding background storage module (*Kurematsu, fig 1, also, pars 0079-0080, where a luminance level of 255 acts as the background storage module value for the light modulating element P, and the difference between the target aperture position and a current aperture position is controlled by said light modulating element P*);

Kurematsu, Baer and Tintera are silent on the following limitations, however Kondo does teach:

- iii. if the magnitude of the difference between the current background storage module and the preceding background storage module exceeds a large storage module change threshold, setting the aperture step size to a maximum movement value (*Kondo, fig. 2 (item 13) and fig. 3, also, col. 3, ln. 40-51, where Kondo teaches the aperture step size is set to a maximum movement value when a large storage module change threshold is exceeded*) ;
- iv. otherwise: determining the magnitude of the difference between the current aperture position and the target aperture position (*Kondo, col. 3, ln. 18-40*);
- v. if the magnitude of the difference between the current aperture position and the target aperture position exceeds a large aperture movement threshold, setting the aperture step size to a large movement value (*Kondo, fig. 2 item 6, and fig 3, also, col. 3, ln. 40-51*);
- vi. otherwise setting the aperture step size to a minimum movement value (*Kondo, fig. 2 item 6, and fig 3, also, col. 3, ln. 40-51*).

It would have been obvious to a person having ordinary skill in the art to combine the above-identified well known uses and benefits of Kurematsu's aperture control system with the above-identified well known uses and benefits of Baer's aperture control system utilizing clipped pixel values with the above-identified well known uses and benefits of Tintera's aperture rate adjustment as discussed re claim 9 above with Kondo's gain magnitude adjustment control in a fashion encompassed by claim 13, and one skilled in the art would have seen the benefits of doing so. See *KSR International Co. v. Teleflex Inc.* 550 U.S. ____ (2007), "*A person of ordinary skill is also a person of ordinary creativity, not an automaton.*"

Regarding claim 16, Kondo further teaches the method of claim 9 further comprising controlling a position of an aperture in an image display system further comprising:

- i. comparing the new aperture position to the target aperture position (*Kondo, col. 3, ln. 18-40*);
- ii. determining whether the new aperture position will exceed the target aperture position (*Kondo, fig. 2 item 13 and fig. 3, also, col. 3, ln. 40-51*);
- iii. if the new aperture position will exceed the target aperture position, then limit the step size to move the aperture to a limited step size to prevent the new aperture position from exceeding the target aperture position (*Kondo, fig. 2 item 13 and fig. 3, also, col. 3, ln. 40-51, and, col. 4, ln. 60-67 cont' col. 5, ln. 1-8*);
- iv. otherwise move the aperture based on the step size (*Kondo, fig. 2 item 13 and fig. 3, also, col. 3, ln. 40-51, and, col. 4, ln. 60-67 cont' col. 5, ln. 1-8*).

Contact

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Koziol whose telephone number is (571) 270-1844. The examiner can normally be reached on Monday - Friday 9:00 - 5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached at (571) 272-7413 . Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-7332.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/08/2008
/srk/

/Samir A. Ahmed/

Supervisory Patent Examiner, Art Unit 2624